

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

JAMES H. SHORTZ,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:05cv83-T
)	(WO)
AUBURN UNIVERSITY)	
MONTGOMERY,)	
)	
Defendant.)	

ORDER

Now pending before the court is the *pro se* plaintiff's motion to amend the complaint. Shortz initially brought this action pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* ("Title VII"), alleging that he was discriminated against on the basis of his race (African-American) when he was subjected to differential treatment and terminated from his employment. He also complained that he was terminated for exercising his First Amendment rights. He named Auburn University at Montgomery as the sole defendant in this case. On September 22, 2005, the court granted the defendant's motion for summary judgment (doc. # 6) to the extent that the court dismissed the plaintiff's First Amendment retaliation claim. (Doc. # 39).

On August 17, 2005, the plaintiff filed a motion to amend the complaint to assert a First Amendment retaliatory discharge claim against prospective defendants Jay Gardner and Nell Robinson. At this juncture, the court concludes that to the extent that Shortz seeks to add defendants Gardner and Robinson and assert a First Amendment retaliatory discharge

claim against them, the motion to amend is due be granted. *See* FED.R.CIV.P. 15(a) (Leave of the court to amend pleadings “shall be freely given when justice so requires.”)

Accordingly, upon consideration of the motion to amend, and for good cause, it is

ORDERED that the plaintiff’s motion to amend (doc. # 29) be and is hereby GRANTED solely to the extent that the plaintiff may pursue a First Amendment retaliatory discharge claim, pursuant to 42 U.S.C. § 1983, against defendants Jay Gardner and Nell Robinson for terminating him for exercising his First Amendment rights. The motion to amend is denied in all other respects. It is further

ORDERED that Jay Gardner and Nell Robinson be and are hereby added as defendants.

Done this 26th day of September, 2005.

/s/Charles S. Coody
CHARLES S. COODY
CHIEF UNITED STATES MAGISTRATE JUDGE